

REMARKS

The application has been carefully reviewed in light of the Office Action dated December 21, 2005. Claims 1, 2, and 6 to 27 are in the application, of which Claims 1 and 8 to 26 have been withdrawn from consideration pursuant to a restriction requirement. Claim 2 is the sole independent claim under consideration. Claims 3 to 5 have been cancelled without prejudice. Claims 1, 6, 7, and 20 have been amended herein. Claim 27 has been newly added. Reconsideration and further examination are respectfully requested.

According to the Office Action, Applicants have not yet filed certified copies of the foreign priority applications Japan 2002-183249 and Japan 2002-191390. However, certified copies were submitted on January 27, 2004. Applicants have confirmed that these papers are available in the Patent Office's Image File Wrapper system. Accordingly, acknowledgment of receipt of the certified copies is respectfully requested.

The Office Action also indicates that a certified copy of international application PCT/JP03/07918 has not yet been filed. However, Applicants respectfully submit that there is no requirement to submit a certified copy of that application. Applicants are claiming benefit of priority to PCT/JP03/07918 under 35 U.S.C. 120 and 365(b), not under 35 U.S.C. 119. There is no requirement to submit a certified copy under 35 U.S.C. 120 and 365(b). See MPEP 1895.01.

Claims 2 to 7 have been rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. The rejection is respectfully traversed.

Applicants respectfully submit that the function and constitution of the

probe for the external standard nucleic acid are sufficiently described, *inter alia*, at page 13, line 14 to page 15, line 3 of the instant application. From this description, it would be recognized that the probe for the external standard nucleic acid is one which has a base sequence complementary to the external standard nucleic acid and noncomplementary to the target base sequence. Accordingly, it is respectfully submitted that one skilled in the art would recognize that Applicants were in full possession of the invention as claimed.

Claims 2 to 7 have been rejected under 35 U.S.C. § 112, second paragraph. The rejection is respectfully traversed, and is submitted to have been obviated by the amendments made to Claim 2 and by the cancellation of Claims 3 to 5.

Claims 2 to 7 were rejected under 35 U.S.C. § 102(b) over the Dudley et al. article (Dudley). Claims 2 and 4 to 7 were rejected under 35 U.S.C. § 102(b) over U.S. Publication No. 2002/0051973 (Delenstarr). The rejections are respectfully traversed.

According to a feature of the invention as recited by Claim 2, the assay contains at least two probes for external standard nucleic acids, where the at least two probes have sequences different from each another and complementary to the external nucleic acids, and where the at least two probes are available for producing calibration curves for detecting an amount of the nucleic acid molecules having the target base sequences in the sample.

Neither Dudley nor Delenstarr is seen to disclose or suggest at least the foregoing feature.

Dudley is merely seen to disclose a quantitative analysis method in which ratios between RNA intensities of samples and RNA intensities of an oligo reference are utilized.

Delenstarr is merely seen to disclose an analysis method in which probes for detecting backgrounds signals, which become detection noises, are provided on an array.

Claims 6, 7, and 27 are also submitted to be patentable because they set forth additional aspects of the present invention and are dependent from the independent claim discussed above. Therefore, separate and individual consideration of each of these dependent claims is respectfully requested.

An Information Disclosure Statement is being submitted herewith.

Consideration of the documents cited therein is respectfully requested.

The application is believed to be in condition for allowance, and a Notice of Allowance is respectfully requested.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office by telephone at (714) 540-8700. All correspondence should be directed to our address given below.

Respectfully submitted,



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